this factor alone is insufficient to grant an adoption order. It is for the natural mother to choose whether to bring up the twins with her own means or to allow the petitioners to do so. She has chosen the former. In my view she is entitled to do so.

The authorities, discussed earlier, are not only against dispensation of a natural mother's consent in the absence of good and compelling reasons but also cautioned against making an adoption order if it is not for the child's welfare or benefit.

In delivering their judgment, the High Court in *Mace* v *Murray*[3] made a few relevant dicta which are noteworthy. At p 380 they said:

> . . . powerful reasons must be shown before a court can properly deem it just and reasonable, notwithstanding a mother's objection, to sever the relationship between her child and herself and make the child for most purposes of the law, and consequently, for most practical purposes, the child of other persons.

Again at p 385 they said:

> It must be conceded at once that in the ordinary case the mother's moral right to insist that her child shall remain her child is too deeply grounded in human feeling to be set aside by reason only of an opinion formed by other people that a change of relationship is likely to turn out for the greater benefit of the child.

For all these reasons and in the exercise of my discretion I did not dispense with the consent of the natural mother and therefore dismissed both petitions with costs to be borne by the petitioners.

Petitions dismissed.

Solicitors: *Gupta Sam & Wijaya; Chung & Co.*

Reported by *Azra Moiz*

Re Shangri-la Cruise Pte Ltd

HIGH COURT (SINGAPORE) — COMPANIES WINDING-UP NO 57 OF 1990
YONG PUNG HOW J
13 SEPTEMBER 1990

Companies and Corporations — Winding up — Statutory demand served at registered address — Company had moved office but not lodged change of registered office — Whether demand effective — Companies Act (Cap 50, 1988 Ed), s 254(2)(a)

The petitioner sought an order, inter alia, that Shangri-la Cruise Pte Ltd ('the company') be wound up by the court. The petitioner had issued to the company a statutory demand under s 254(2)(a) of the Companies Act (Cap 50, 1988 Ed) and attempted to serve it at its registered address. This address was not occupied by the company but the petitioner left the demand there. The issue was whether the company should be wound up.

Held, allowing the petition:
Until the notice of change of registered office was lodged with the Registrar of Companies, there was no doubt that the registered office of the company remained unchanged for the purposes of the Act although the company may in fact have moved its office to another address. The demand was accordingly valid and the company was ordered to be wound up.

Cases referred to
1 *Ross* v *Invergordon Distillers Ltd* [1961] SLT 358 (refd)
2 *Peter Kurt (Development) Pty Ltd* v *Glenbar Homes Pte Ltd* (1977-78) 3 ACLR 698 (refd)
3 *Re Third Lojebo Pty Ltd* (1981–82) 6 ACLR 409 (refd)
4 *Quicksafe Freightlines Pty Ltd* v *Shell Co of Australia Ltd* (1985) 3 ACLC 237 (refd)
5 *Summit Co (M) Sdn Bhd* v *Nikko Products (M) Sdn Bhd* [1985] 1 MLJ 68 (refd)

Legislation referred to
Companies Act (Cap 50, 1988 Ed) ss 4, 142(1), 143(1A), 254(2)(a), 257(2)

Ho Hock Lai for the petitioner.
Wong Sheng Kwai for the Official Receiver.

Cur Adv Vult

Yong Pung How J: In this petition, Joy Win Development Ltd, a company incorporated in Hong Kong and having its registered office at Room 1211, New World Office Building, Kowloon, Hong Kong ('the petitioner'), has sought an order that Shangri-la Cruise Pte Ltd (formerly known as Shangri-la Holidays & Cruise Pte Ltd) ('the company') be wound up by the court under the provisions of the Companies Act (Cap 50, 1988 Ed) ('the Act'); that the Official Receiver may be appointed a liquidator; and that the costs of the petition be taxed and paid out of the assets of the company.

On 13 February 1990 the petitioner's solicitors carried out the usual instant search at the Registry of Companies and Businesses for particulars of the company. This is the electronic instant information service by which the registrar provides direct to the offices of law firms brief particulars of companies in respect of which particulars are sought. The particulars of the company provided to the petitioner's solicitors indicated that the registered office of the company was at 1 Magazine Road #05–19, Central Building (off Havelock Road), Singapore 0105. The particulars stated that this information was updated to seven days until 13 February 1990.

In reliance on this information, the petitioner's solicitors issued to the company a statutory demand dated 13 February 1990 pursuant to s 254(2)(a) of the Act and attempted to serve this on the company by leaving it at its registered office at the Magazine Road address. When the solicitors' service clerk called at that address, however, the occupants of the premises refused to allow him to leave the notice there, stating that the company was no longer at that address. The next day,

14 February 1990, the solicitors wrote to the registrar to clarify the position of the company's registered office from their records, and on 22 February 1990, the registrar replied confirming that the registered office of the company was still at the same address which had been indicated during the search.

Relying on that assurance by the registrar, the petitioner's solicitors arranged with the occupants of the Magazine Road premises to allow them to leave the statutory demand at the premises, in order that they might comply with the statutory requirement under s 254(2)(a) of the Act. This was done and a copy of the statutory demand was accordingly left at the Magazine Road premises on 1 March 1990.

When the petition came on for hearing on 13 July 1990, the Official Receiver objected to a winding-up order being made on the ground that the papers were not in order, because the statutory demand had not been served at the registered office of the company. Following further enquiry by the petitioner's solicitors, it transpired that the company had in the meanwhile lodged a notice of change of registered office on 5 March 1990 reporting that the company had been moved to 101 Upper Cross Street #06–03A, People's Park Centre, Singapore 0105 on 12 February 1990. In view of this new information, the petitioner obtained the leave of the court to amend the petition to show the new address of the company's registered office, and on 31 July 1990, the petition was duly served on the company by leaving a copy of it at the new address.

When the petition came on for hearing on 3 August 1990, the question was raised as to whether service of the statutory demand had been properly effected on 1 March 1990 and the hearing of the petition was further adjourned until today for a full argument on the issue. Before me today, therefore, the question was whether the statutory demand had been properly served on 1 March 1990 as required under s 254(2) of the Act.

The petitioner contends that an office is the registered office of the company if the particulars of its address are entered in the relevant register kept by the registrar, and it remains as the registered office of the company until a change in the particulars has been lodged with the registrar.

Under the Act a company may be ordered by the court to be wound up if the company is unable to pay its debt: s 254(1)(e). The company is deemed to be unable to pay its debts if 'a creditor . . . has served on the company by leaving at the registered office a demand . . . requiring the company to pay the sum so due, and the company has for 3 weeks thereafter neglected to pay the sum . . . ': s 254(2)(a). Under the Act, a company must, as from the date of its incorporation, have a registered office within Singapore to which all communications and notices may be addressed: s 142(1), and a registered office means an office which has been registered with the registrar: s 4. Notice in the prescribed form of the situation of the registered office must be lodged with the registrar at the time of lodgment for the incorporation of the company, and in the case of any subsequent change of particulars, notice of the change must be lodged with the registrar within 14 days of any such change (s 143(1)). So far as 'particulars' are concerned, s 143(1A) provides that:

> In subsection (1), 'particulars', in relation to the situation of the registered office, shall be deemed to include the address and designation of the situation or address of the registered office.

In *Ross* v *Invergordon Distillers Ltd*[1] Lord President Clyde said at p 360:

> In my view, there is not a registered office within the meaning of the Companies Act until, not merely have the directors resolved where the office is to be, but the statutory notice to the registrar has been given. It is then, and then only, that the company's registered office is 'registered' or, if a change has been made, is changed. Till intimation of a change, the creditors and others dealing with the company are entitled to assume that the registered office remains where it originally was and it is only when the necessary steps have been taken to inform the registrar of the change, so that he may record the same in terms of s 107, that the original registered office ceases to be the registered office of the company.

Ross v *Invergordon Distillers Ltd*[1] was applied by the Supreme Court of Queensland in *Peter Kurts (Developments) Pty Ltd* v *Glenbar Homes Pte Ltd.*[2]

In amplification of this general principle, if a company has changed its registered office without filing a formal notice to the effect (as in the present case), only service at the registered office has been held to be valid: *Re Third Lojebo Pty Ltd*;[3] *Quicksafe Freightlines Pty Ltd* v *Shell Co of Australia Ltd.*[4] The application of this principle may cause problems in practice if there is delay between the lodgment of the notice of change of particulars with the registrar and the updating of the register. In *Summit Co (M) Sdn Bhd* v *Nikko Products (M) Sdn Bhd*,[5] the appellants purported to serve a writ on 1 July 1982 on the respondent company at an address which they believed to be the registered address of the company. The respondent company had in fact changed the registered address and the change had been notified to the Registrar of Companies on 20 February 1982. The notification of change was not however entered into the register until 24 September 1982. When no appearance was entered to the writ the appellants obtained judgment in default and execution proceedings were taken. The respondents when they came to know of the writ subsequently applied to have the writ set aside. The trial judge gave judgment for the respondents and the appellants appealed. The Federal Court dismissed the appeal, holding that the effective date of

the change of the registered address was the date of the lodgment of the notice to the Registrar of Companies, and that therefore the learned trial judge was correct in holding that there had been no good service of the writ in this case and in setting aside the judgment.

In the present case, the position was more straightforward as the statutory demand was served on the company at the Magazine Road registered office on 1 March 1990, even before the company's notice of change of registered office was lodged with the registrar on 5 March 1990. In my judgment, until the notice of change of registered office was lodged with the registrar, there could be no doubt that the registered office of the company remained unchanged for the purposes of the Act, although the company may in fact have moved its office to another address. Service of the statutory demand was therefore properly effected on the company on 1 March 1990 at the registered office of the company so as to comply with the provisions of s 242(2)(a) of the Act.

In this appeal, the petitioner has also submitted an additional ground of appeal, that even if the statutory demand was not left at the registered office of the company, the court would have a discretion to cure the defect under s 257(2) of the Act read with r 191(1) of the Companies (Winding-Up) Rules 1969. In view of my finding on the first ground of appeal, it will not be necessary for me to deal with the second ground.

Accordingly, I allow the appeal and order that the company be wound up by the court under the provisions of the Companies Act, that the Official Receiver be appointed as liquidator, and that the costs of the petition be taxed and paid out of the assets of the company.

Appeal allowed.

Solicitors: *Allen & Gledhill.*

Reported by *Terrence Tan Bian Chye*

MALAYSIAN REPORTS

Minister of Labour, Malaysia v National Union of Journalists, Malaysia and another appeal

SUPREME COURT (KUALA LUMPUR) — CIVIL APPEAL NOS 01-46-89 AND 02-356-89
HASHIM YEOP A SANI CJ (MALAYA), HARUN HASHIM AND JEMURI SERJAN SCJJ
12 OCTOBER 1990

Administrative Law — Discretionary powers — Minister refusing to refer dispute to Industrial Court — Whether minister had exercised discretion according to law — Industrial Relations Act 1967, s 26(2)

In this case certain allegations of misconduct had been made against a reporter of *Utusan Melayu* while he was in Tokyo for a fellowship course. The allegations were made in the newspapers and the reporter concerned had said in an interview there was no truth in the allegations. As a result of the allegations, the *Utusan Melayu* suspended the reporter and wrote to him to ask him to explain the allegations against him. The reporter replied that it would be futile for him to give any explanations as the *Utusan Melayu* had prejudged the issues as evidenced by his suspension. *Utusan Melayu* then dismissed him alleging that he had failed to explain the matters raised in their letter. Subsequently the respondents took up the matter and when they failed to persuade *Utusan Melayu* to reinstate the reporter they reported the trade dispute to the Industrial Relations Office. The Director-General of Industrial Relations then proceeded to initiate conciliation proceedings and when these failed he reported the matter to the minister. The minister decided that it was not expedient to refer the trade dispute to the Industrial Court. The minister stated that he had considered all the relevant documents including the report of the union and the replies of the reporter and after due and careful consideration he was satisfied that the reporter had been dismissed with just cause and excuse. The respondents then applied for an order of certiorari to quash the decision of the minister and an order of mandamus to refer the dispute to the Industrial Court. The learned judge of the High Court held that the minister, in deciding that the reporter had been dismissed without just cause or excuse, had usurped the function of the Industrial Court and had acted in excess of jurisdiction. The appellants appealed.

Held, dismissing the appeal:

(1) Although the finding of the learned judge that the minister had acted in excess of jurisdiction could not be supported on the ground given by him, nevertheless the finding of the judge that the minister had exceeded the powers given to him under s 26(2) of the Industrial Relations Act 1967 or had acted ultra vires that section can be supported by more fundamental reasons. The crucial question is whether the minister had exercised his discretion in accordance with law.

(2) The discretion conferred on the minister under s 26(2) of the Act without any express limitation placed upon it in the Act does not give the minister a subjective power. The idea of a 'subjective test' was rejected by the court, as the courts have developed a broad doctrine of ultra vires whereby the exercise of wide, discretionary powers may be reviewed.